



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

office petition

IFW/DAC

44

Application of:

Applicant(s) : Cyphers et al.  
Serial No. : 10/669,082  
Filed: : September 23, 2003  
Title : PASSIVE FIRE PROTECTION DEVICE  
Docket : SKY 0001 PA/41130.3  
Examiner : James Sean Hogan  
Art Unit: : 3752  
Confirmation No. : 1865

**Mail Stop Petition**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450, on June 20, 2005.

John D. Reed

Reg. No. 46,506

Sir:

**PETITION TO WITHDRAW APPLICATION FROM ISSUE PURSUANT TO 37 CFR 1.313(c)(1)**

The Applicants hereby petition the Commissioner to withdraw the above-identified application from issue. The issue fee in this application was timely paid on May 27, 2005 based on a Notice of Allowance dated March 23, 2005. Please find enclosed the \$130.00 petition fee required by Rule 1.313(a) as set forth in Rule 1.17(h).

Applicants respectfully petition that the above-identified application be withdrawn from issue, in order to permit consideration of an amendment under 37 CFR §1.312. During a recent review of the claims, the Applicants discovered that independent claim 30 included a claim recitation that lacks proper antecedent basis. The Applicants, believing that such recitation would render the claim unpatentable under 35 USC 112, ¶2 as being indefinite, hereby enclose the proposed amendment and an explanation as to how such amendment renders claim 30 patentable.

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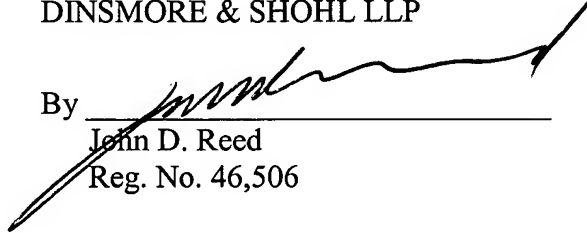
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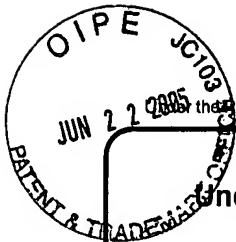
Serial No. 10/669,082  
Docket No. SKY 0001 PA/41130.3

Accordingly, the Applicants respectfully request that this petition be granted and the above-identified application withdrawn from issue pursuant to 37 CFR §1.313(c)(1) for consideration of the proposed amendment.

Respectfully submitted;  
DINSMORE & SHOHL LLP

By   
John D. Reed  
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<b>PETITION FEE</b> <b>Under 37 CFR 1.17(f), (g) &amp; (h)</b> <b>TRANSMITTAL</b> (Fees are subject to annual revision)  Send completed form to: Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450	<b>Application Number</b>	10/669,082
	<b>Filing Date</b>	September 23, 2003
	<b>First Named Inventor</b>	Daniel C. Cyphers et al.
	<b>Art Unit</b>	3752
	<b>Examiner Name</b>	James Sean Hogan
	<b>Attorney Docket Number</b>	SKY 0001 PA/41130.3

Enclosed is a petition filed under 37 CFR 1.313 that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of \$ 130.00 is enclosed.  
This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.

**Payment of Fees** (small entity amounts are NOT available for the petition fees)

- ☐ The Commissioner is hereby authorized to charge the following fees to Deposit Account No. \_\_\_\_\_:  
☐ petition fee under 37 CFR 1.17(f), (g) or (h) ☐ any deficiency of fees and credit of any overpayments  
Enclose a duplicative copy of this form for fee processing.
- ☒ Check in the amount of \$ 130.00 is enclosed.
- ☐ Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

**Petition Fees under 37 CFR 1.17(f): Fee \$400 Fee Code 1462**

For petitions filed under:

- § 1.53(e) - to accord a filing date.
- § 1.57(a) - to accord a filing date.
- § 1.182 - for decision on a question not specifically provided for.
- § 1.183 - to suspend the rules.
- § 1.378(e) - for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.
- § 1.741(b) - to accord a filing date to an application under § 1.740 for extension of a patent term.

**Petition Fees under 37 CFR 1.17(g): Fee \$200 Fee Code 1463**

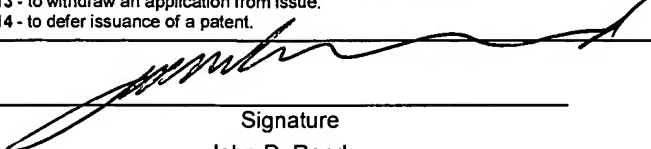
For petitions filed under:

- § 1.12 - for access to an assignment record.
- § 1.14 - for access to an application.
- § 1.47 - for filing by other than all the inventors or a person not the inventor.
- § 1.59 - for expungement of information.
- § 1.103(a) - to suspend action in an application.
- § 1.136(b) - for review of a request for extension of time when the provisions of section 1.136(a) are not available.
- § 1.295 - for review of refusal to publish a statutory invention registration.
- § 1.296 - to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.
- § 1.377 - for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.
- § 1.550(c) - for patent owner requests for extension of time in ex parte reexamination proceedings.
- § 1.956 - for patent owner requests for extension of time in inter partes reexamination proceedings.
- § 5.12 - for expedited handling of a foreign filing license.
- § 5.15 - for changing the scope of a license.
- § 5.25 - for retroactive license.

**Petition Fees under 37 CFR 1.17(h): Fee \$130 Fee Code 1464**

For petitions filed under:

- § 1.19(g) - to request documents in a form other than that provided in this part.
- § 1.84 - for accepting color drawings or photographs.
- § 1.91 - for entry of a model or exhibit.
- § 1.102(d) - to make an application special.
- § 1.138(c) - to expressly abandon an application to avoid publication.
- § 1.313 - to withdraw an application from issue.
- § 1.314 - to defer issuance of a patent.

  
\_\_\_\_\_  
Signature  
John D. Reed  
\_\_\_\_\_  
Typed or printed name

\_\_\_\_\_  
June 20, 2005  
\_\_\_\_\_  
Date  
46,506  
\_\_\_\_\_  
Registration No., if applicable

This collection of information is required by 37 CFR 1.17. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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